

REMARKS

Claims 3, 7-11, 18-21, 24-27, 32, 33, and 35-44 are pending in this application. By this Amendment, claims 21, 35 and 36 are amended and claims 37-44 are added.

The Office Action objects to the specification under 35 U.S.C. 132(a) as allegedly introducing new matter. Counsel disagrees that any amendments made in the preceding response introduced new matter. Nevertheless, the noted subject matter in claim 36 is deleted.

The Office Action rejects claims 3, 8-11, 18-21, 24-27, 32, 33, 35 and 36 under 35 U.S.C. 103(a) as being allegedly unpatentable over European Patent No. 1,098,522 to Stone et al. ("Stone") in view of U.S. Patent Application Publication No. 2001/0044899 to Levy ("Levy"). In addition, the Office Action rejects claim 7 under 35 U.S.C. 103(a) as being unpatentable over Stone in combination with Levy and further in view of PCT Patent Publication WO 97/48212 to Kari et al. ("Kari").

By this Amendment, independent claims 35 and 36 are amended to clarify that the watermark information representing the communication capabilities of the first device is combined with the data stream after application processing but prior to network and transport layer processing. The advantage of this aspect is, as described at paragraph [0026] of the published document corresponding to the present application, allows the watermark to be applied to the data stream without affecting interfering with lower level processing of the data stream (such as encryption, data packing and data routing). The watermark information is therefore transparent to devices such as routers, relay equipment etc. This additional aspect is also included in the amendments made to claims 35 and 36. None of the references of record teach or suggest this aspect. Stone does not even mention communicating a data stream between two devices, let alone the concept of embedding the watermark information between the application and transport/network layers.

New claims 37-42 recite further details concerning ways that the watermark information can be inserted into the data stream according to the various embodiments described in the present application that are not taught or suggested in the references of

record. Specifically, neither Stone or Levy suggest replacing least significant bits of compressed multimedia data with bits representing the watermark as described in claims 37-40. Moreover, none of the references of record describe that the watermark information is combined into the data stream with a logical "OR" function as recited in claims 41 and 43. Furthermore, none of the references disclose or suggest that a second device determines from the watermark information the highest level of communication capability in common between the first device and second device as recited in claims 42 and 44.

Based on the foregoing, it is respectfully submitted that the present application is in condition for allowance. Favorable action is respectfully solicited. The Examiner is cordially invited to telephone the undersigned with any questions or comments in order to expedite prosecution of this application.

By this Amendment, 8 dependent claims are added. Thus, a check in the amount of \$400 is submitted herewith for the 8 additional dependent claims over and above the number of dependent claims previously paid for. No other fees are believed to be due. The Commissioner is hereby authorized to charge payment of any fees required for the above-identified application or credit any overpayment to Deposit Account No. 05-0460.

Respectfully submitted,



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